INDEX

	Page No.
Opinion below	1
Jurisdiction	1
Questions presented	2
Statutes and rule involved	2
Statement	2
Argument	5
Conclusion	14
Appendix	15

CITATIONS

Cases:

Ballard v. *United States*, 329 U. S. 187	7
Berger v. *United States*, 295 U. S. 78	13
Commonwealth v. *Welosky*, 276 Mass. 398, 177 N. E. 656, certiorari denied, 284 U. S. 684	8
Cox v. *First Mortgage Loan Co.*, 173 Okla. 392, 48 P. 2d 1060	10
Crouch v. *United States*, 168 F. 2d 866	8
Dana, In re, 68 Fed. 886	8, 9
Fay v. *New York*, 332 U. S. 261	8
Gibson v. *Mississippi*, 162 U. S. 565	8
Glasser v. *United States*, 315 U. S. 60	13
Government of the Canal Zone v. *Nelson Rounsevell*, Criminal No. 2762	10
Hale v. *Henkel*, 201 U. S. 43	6
Haskell v. *Bailey*, 63 Fed. 873	10
Haywood v. *United States*, 268 Fed. 795, certiorari denied, 256 U. S. 689	6
International Longshoremen's & Ware. Union v. *Ackerman*, 82 F. Supp. 65	8
Jackson v. *State*, 50 Okla. Crim. Rep. 422, 298 Pac. 313	11
Johnson v. *Sanford*, 167 F. 2d 738	8
Leavy v. *State*, 45 Ga. App. 574, 165 S. E. 470	10
Lynett v. *Huester*, 322 Pa. 524, 185 Atl. 835	10
People v. *Miller*, 122 Cal. 84, 54 Pac. 523	10
People v. *Strauch*, 247 Ill. 220, 93 N. E. 126	11, 12
People v. *Talbot*, 196 Mich. 520, 162 N. W. 1017	11
People v. *Taylor*, 279 Ill. 481, 117 N. E. 62	11
Raymond v. *United States*, 25 App. D. C. 555, certiorari denied, 200 U. S. 619	13
Remus v. *United States*, 291 Fed. 501, certiorari denied, 263 U. S. 717	6
Schmuck v. *Hill*, 2 Neb. (Unof) 79, 96 N. W. 158	10
Silverthorne Lumber Co. v. *United States*, 251 U. S. 385	5, 6

Cases—Continued Page

State v. *Cramer*, 193 Minn. 344, 258 N. W. 525 11
State v. *Elder*, 19 N. M. 393, 143 Pac. 482 10
State v. *Fosburgh*, 32 S. D. 370, 143 N. W. 279 11
State v. *Herman*, 219 Wisc. 267, 262 N. W. 718 11
State v. *Huston*, 19 S. D. 644, 104 N. W. 451 10
State v. *Mason*, 155 Ark. 189, 244 S. W. 6 11
State v. *Piver*, 74 Wash. 96, 132 Pac. 858 10
Thiel v. *Southern Pacific Co.*, 328 U. S. 217 7
United States v. *Press Publishing Co.*, 219 U. S. 1 ..... 8, 9
United States v. *Smith*, 173 Fed. 227 ..... 8, 9
United States v. *Williams*, 3 Fed. 484 9
Viereck v. *United States*, 318 U. S. 236 13
Williams v. *United States*, 168 F. 2d 866 8
Willow Creek, In re, 74 Ore. 592, 144 Pac. 505 10
Wilson v. *United States*, 221 U. S. 361 6

Statutes and Rule:

Canal Zone Code, approved June 19, 1934, 48 Stat. 1122:
Title 1:
Sec. 1 15

Title 5:
Sec. 351 ..... 9, 15
Sec. 352 ..... 9, 15
Sec. 354 ..... 11, 16
Sec. 355 ..... 9, 16
Sec. 356 16
Sec. 357 16

Title 6:
Sec. 181 ..... 10, 17
Sec. 183 ..... 10, 17
Sec. 184 ..... 9, 10, 17
Sec. 187 ..... 10-11, 18
Sec. 201 ..... 11, 19
Sec. 494 5
Sec. 495 5

Title 7:
Sec. 34 ..... 8, 19

Rules of the United States District Court for the Canal Zone, Part V, Sec. 1, effective August 1, 1945 ..... 8, 20

In the Supreme Court of the United States

OCTOBER TERM, 1949

No. 267

JOSEPH SACHS, PETITIONER

v.

THE GOVERNMENT OF THE CANAL ZONE

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

BRIEF FOR THE RESPONDENT IN OPPOSITION

OPINION BELOW

The opinion of the Court of Appeals (R. 301-314) has not yet been reported.

JURISDICTION

The judgment of the Court of Appeals was entered July 19, 1949 (R. 315). The petition for a writ of certiorari was filed August 15, 1949. The jurisdiction of this Court is invoked under 28 U. S. C. 1254(1). See also Rules 37(b)(2) and 45(a), F. R. Crim. P.

QUESTIONS PRESENTED

1. Whether petitioner has any standing to complain against the admissibility of a statement given by his stenographer to the prosecuting authorities prior to the trial on the ground that it was made in response to an allegedly illegal subpoena.

2. Whether petitioner's rights were violated because only men were eligible for service on the jury which tried him.

3. Whether there was a publication of a criminal libel where the libelous articles were printed in Panama City, Panama, and circulated in the Canal Zone.

4. Whether it was necessary that the information against petitioner allege in detail the manner of the publication and the persons to whom it was made.

5. Whether petitioner was entitled to adduce evidence calculated to show provocation leading up to the alleged libel without first establishing its truth.

6. Whether the government attorney was guilty of prejudicial misconduct at the pre-sentence hearing.

STATUTES AND RULE INVOLVED

The pertinent provisions of the Canal Zone Code and the Rules of the District Court for the Canal Zone are set out in the Appendix, pp. 15-20, *infra*.

STATEMENT

Petitioner, the international representative of the United Public Workers, C. I. O., a labor organiza-

tion with a local union consisting of native Panamanians and West Indians employed in the Canal Zone (R. 170), was charged by information with publishing and circulating a criminal libel of and concerning Daniel E. McGrath, District Attorney for the Canal Zone, in violation of Title 5, Sections 351 and 352, Canal Zone Code (R. 1-3). McGrath's actions in instituting, on December 29, 1947 (R. 45, 46), a prosecution for forgery of a local union check against one Nolan, treasurer of the local, precipitated the events involved in this case. Subsequently, on February 27, 1948, Nolan was convicted on that charge (R. 196) and he was sentenced to imprisonment for one year (R. 190).

The evidence adduced in support of the charges of the information may be summarized as follows:

On February 4, 1948, at about 10:00 a. m., in the union office in La Boca, Canal Zone, petitioner gave to Miss Harewood, a stenotypist and translator employed in the office (R. 76), a text of a speech in English which he directed her to translate into Spanish for release to the press (R. 77). Between 7:30 and 8:00 p. m. that evening, petitioner delivered a speech over radio station HOG in Panama City, Panama (R. 125), which was heard in the Canal Zone (R. 105). This speech included the libelous words which accused the District Attorney of obtaining an affidavit "figuring in" the Nolan case "through trickery and duress" and of an attempt to "bribe [Nolan] with a suspended sentence if he would enter a guilty plea and promise

not to take civil action against you [i. e., McGrath]" (R. 2, 106-107, 131, 233-238). Later that evening, about 9:00 p. m., in Panama City, petitioner gave to one McKabney, a radio announcer at station HOG, the original text of the speech (R. 124, 126). McKabney had copies made (R. 128, 132, 233-238), one of which he delivered to the editorial office of the "Panama American," a newspaper published in Panama City (R. 128). Another copy was obtained by one Payne, an employee of the "Nation" (R. 109, 129), a bilingual newspaper published in Panama City (R. 102).

The next day, February 5, 1948, at about 9:00 a. m., in the union office in La Boca, Canal Zone, petitioner ordered Mrs. Reid, the office manager (R. 56), to translate into Spanish a writing in English which contained the libelous words (R. 59, 60, 78). After this writing was translated by Mrs. Reid, it was inserted into the speech by Miss Harewood (R. 61, 78, 226-232). Petitioner told Mrs. Reid to send the completed version to all the newspapers (R. 66), which she did (R. 61). Later that morning, about 9:30, in the union office, petitioner gave to Mrs. McIlhenny, a reporter for the "Nation," a copy of the complete speech (R. 63, 71). That day the "Panama American" and "Nation," which circulated in the Canal Zone, reported the speech, including the libelous words (R. 130-133, 225-226, 238-239).

Petitioner was found guilty after a jury trial (R. 26), and following a pre-sentence hearing be-

fore the trial judge on circumstances in aggravation or mitigation of punishment, pursuant to Title 6, Sections 494 and 495 of the Canal Zone Code (R. 157-206), he was sentenced to 9 months' imprisonment in the Canal Zone penitentiary (R. 206-207). On appeal, the conviction was affirmed by the Court of Appeals for the Fifth Circuit (R. 315).

ARGUMENT

1. Petitioner contends (Pet. 12-14) that the prosecuting attorney illegally obtained evidence by subpoenaing and taking the statement of Miss Harewood prior to trial and that the Court of Appeals' ruling that this was no invasion of his rights and consequently furnished no basis for objection to use of the statement at the trial (R. 306-307) is contrary to the principle of *Silverthorne Lumber Co.* v. *United States,* 251 U.S. 385. This contention is without merit.

The statement in question was made by Miss Harewood on June 12, 1948 (R. 89). Petitioner had been committed on a complaint on March 31 (R. 10) and the information was filed on April 13 (R. 1). Miss Harewood, who was called on behalf of the government at the trial (R. 75), proved to be a hostile witness and government counsel thereupon requested and received permission from the court to cross-examine her (R. 81, 86). It was in connection with such examination, and for impeachment purposes, that the statement was offered and admitted (Compare R. 80-81 with R. 89, 90-

91; R. 92). Petitioner does not claim that the statement was not admissible for that purpose.

The *Silverthorne* case is wholly inapposite. There, papers and documents had been seized illegally; here, only a pre-trial statement of a witness is involved. There, "all the papers had been seized in violation of the parties' constitutional rights" (251 U.S. at 391); here, Miss Harewood was not a party. The identity which petitioner attempts to establish between Miss Harewood and himself (Pet. 12) is illusory because the record does not show that the local union was a corporation, that petitioner was an officer of the local union, that any information given by Miss Harewood to the prosecuting attorney was property of the local union, or that petitioner had any proprietary right to information Miss Harewood possessed. Under these circumstances, if there was any invasion of constitutional rights, which we do not for a moment admit, the right to complain belonged solely to Miss Harewood,[1] not to petitioner.

Other reasons assigned by petitioner for suppressing the alleged illegally obtained statement (Pet. 13) are without substance, and petitioner fails to cite any authority supporting them.[2]

---

[1] Cf. *Wilson* v. *United States*, 221 U. S. 361; *Hale* v. *Henkel*, 201 U. S. 43, 69-70; *Remus* v. *United States*, 291 Fed. 501, 511 (C.A. 6), certiorari denied, 263 U. S. 717; *Haywood* v. *United States*, 268 Fed. 795, 804 (C.A. 7), certiorari denied, 256 U. S. 689.

[2] (a) The civil suit was entirely separate from and immaterial in the instant criminal case (R. 48).

(b) The statement of Miss Harewood (R. 241-249) was

2. Petitioner concedes that he had no constitutional right to a trial by a jury including women, but he argues for the right to have women qualified for such service in order to assure an impartial jury drawn from a cross-section of the community. He relies upon *Ballard* v. *United States,* 329 U.S. 187, and *Thiel* v. *Southern Pacific Co.,* 328 U.S. 217 (Pet. 14-17).

In the *Ballard* case, *supra,* California law had qualified women for jury service, and Congress had provided by Section 275 of the Judicial Code that jurors in a federal court should have the same qualifications as those of the highest court of law in the state. Therefore, since women had been excluded from the jury panel contrary to the federal statute, the conviction was reversed. However, there is no statute similar to Section 275 of the Judicial Code applicable in the Canal Zone and no statute or rule of court making women eligible for jury service. *Thiel* v. *Southern Pacific Railway, supra,* is also clearly not in point, for it involved an entirely different set of circumstances whereby all persons who worked for a daily wage were excluded from jury service.

Petitioner did not have any absolute right to in-

---

clearly material on the issues in the instant criminal case.

(c) Petitioner's statement of the government attorney's "reliance upon the fact that only the rights of colored persons were involved" (Pet. 13) is not supported by a fair appraisal of the record, and Exhibit K (R. 249-250), cited by him, is a bulletin of his own union giving a self-serving version as to the government attorney's position on the motion to suppress Miss Harewood's statement.

sist upon having women on the jury panel. See *Fay* v. *New York,* 332 U.S. 261, 289-290; *Gibson* v. *Mississippi,* 162 U.S. 565, 580; *Commonwealth* v. *Welosky,* 276 Mass. 398, 177 N.E. 656, certiorari denied, 284 U.S. 684; *International Longshoremen's & Ware. Union* v. *Ackerman,* 82 F. Supp. 65, 122 (D. Hawaii); *Johnson* v. *Sanford,* 167 F. 2d 738 (C.A. 5); *Crouch* v. *United States,* 168 F. 2d 866 (C.A. 5; *Williams* v. *United States,* 168 F. 2d 866 (C.A. 5). The only qualifications for jury service prescribed by Title 7, Section 34, Canal Zone Code, p. 19, *infra,* are citizenship and residence. And it is clear from a reading of this statute that Congress contemplated that the district judge should implement it by court rules prescribing additional qualifications. This the District Court has done by Part V, Section 1 of its rules, pp. 19-20, *infra,* prescribing the following qualifications: "male sex; age of twenty-one years or over; ability to read, write, and understand the English language; intelligence, sobriety, discretion, and impartiality."

3. There is no merit in petitioner's contention (Pet. 17-20) that there was only circulation, not publication, of the libel in the Canal Zone, and that since the Canal Zone Code does not specifically proscribe circulation, no crime was committed. To support this argument, petitioner relies upon *United States* v. *Press Publishing Co.,* 219 U.S. 1; *United States* v. *Smith,* 173 Fed. 227 (D. Ind.); and *In re Dana,* 68 Fed. 886 (S.D.N.Y.). The

first case cited is not in point because the New York statutes involved there distinguished between "circulation" and "publication,"[3] whereas there is no comparable distinction in the Canal Zone Code. In the *Smith* and *Dana* cases it was held that a libel published elsewhere and circulated in the District of Columbia was not prosecutable there, but it did not appear that District of Columbia law made it a crime to circulate a libel within the District. Here, on the other hand, Title 5, Section 355 of the Canal Zone Code, p. 16, *infra*, "Publication defined," provides that "It is enough that the accused knowingly parted with the immediate custody of the libel under circumstances which exposed it to be read or seen by any other person than himself." When petitioner gave copies of his libelous speech to McKabney (R. 124, 126) and Mrs. McIlhenney, a reporter for the "Nation" (R. 63, 71), he knew and fully intended that the libel would be published and circulated to reach persons in the Canal Zone, and was liable for all subsequent publications which were the natural result of his act.[4]

---

[3] "Sections 249 and 250, in substance, provided that where a person libeled is a resident of the State the prosecution shall be either in the county of such residence or the county where the paper is published, and that where the person libeled is a non-resident the prosecution shall be in the county in which the paper, on its face, purports to be published, or, if it does not so indicate, in any county in which it was *circulated*." 219 U. S. at 14, italics supplied.

[4] The use of the word "circulate" in the information (R. 1-3), although not included in Title 5, Sections 351 and 352, Canal Zone Code, pp. 15-16, *infra*, was permissible under Title 6, Section 184, Canal Zone Code, pp. 17-18, *infra*. The word "publish" is synonymous with "circulate." *United States* v.

Schmuck v. *Hill*, 2 Neb. (Unof) 79, 96 N.W. 158, 159. Petitioner was guilty of criminal libel even though the newspapers circulating in the Canal Zone in which the libelous speech was printed were published in Panama City. See *Haskell* v. *Bailey*, 63 Fed. 873, 875 (C.A. 4); *State* v. *Piver*, 74 Wash. 96, 99, 132 Pac. 858, 859; *Leavy* v. *State*, 45 Ga. App. 574, 581, 165 S.E. 470, 473; *State* v. *Huston*, 19 S.D. 644, 104 N.W. 451; *People* v. *Miller*, 122 Cal. 84, 92-93, 54 Pac. 523, 526-527. See also *Government of the Canal Zone* v. *Nelson Rounsevell*, Criminal No. 2762 (D. Canal Zone, 1935).[5]

4. Petitioner's attack on the information for failure to contain allegations as to the manner of the publication and to whom made, in alleged disregard of Title 6, Sections 181 and 183, Canal Zone Code, p. 17, *infra*, is without merit (Pet. 20). These sections must be read together with the accompanying Sections 184 and 187, pp. 17-19, *infra*, and when this is done it is clear that the information enabled petitioner as "a person of common un-

---

Williams, 3 Fed. 484, 486 (E.D.N.Y.); *Cox* v. *First Mortgage Loan Co.*, 173 Okla. 392, 394, 48 P. 2d 1060, 1063; *Lynett* v. *Huester*, 322 Pa. 524, 530, 185 Atl. 835, 837; *In re Willow Creek*, 74 Ore. 592, 620, 144 Pac. 505, 515; *State* v. *Elder*, 19 N.M. 393, 402, 143 Pac. 482, 485.

[5] In the *Rounsevell* case the court held: "If a newspaper containing a libelous article is circulated within a particular jurisdiction, the libel is 'published' within such jurisdiction, even though printed elsewhere, and the Courts thereof may proceed to try and punish the person committing the libel. *People* v. *Seeley*, 72 Pac. 834; *People* v. *Miller*, 54 Pac. 523. The Court is of the opinion that the use of the words 'publish and circulate, and procure to be published and circulated' were not separate offenses * * *."

derstanding to know what is intended," Section 187 (f), *infra*, p. 18.

It is sufficient for the information to state generally that the libel was published concerning the District Attorney, and extrinsic facts to show the application of the defamatory matter to him was properly left to be supplied by evidence at the trial. Title 6, Section 201, Canal Zone Code, p. 19, *infra; State* v. *Cramer,* 193 Minn. 344, 346-347, 258 N.W. 525, 526. It was also not necessary for the information to specify the person or persons to whom the libelous statement was made. *Jackson* v. *State,* 50 Okla. Crim. Rep. 422, 426-427, 298 Pac. 313, 315; *State* v. *Mason,* 155 Ark. 189, 191, 244 S.W. 6, 7.

5. Petitioner also complains about the trial court's refusal to permit him to introduce evidence to show alleged circumstances of provocation leading up to his libel of the District Attorney, but this argument is unavailing (Pet. 21-22). While the truth and good motives might be shown as a defense (Title 5, Section 354, Canal Zone Code, p. 16, *infra*), the burden of proving truth was upon petitioner.[6] Since he made no attempt to prove that the libelous remarks were true (R. 153, 305), the circumstances of his alleged provocation and good motives could not be shown.[7] It would have been improper to

---

[6] *State* v. *Fosburgh,* 32 S.D. 370, 379, 143 N.W. 279, 282; *People* v. *Taylor,* 279 Ill. 481, 482, 117 N.E. 62; *People* v. *Strauch,* 247 Ill. 220, 233, 93 N.E. 126, 132.

[7] *People* v. *Talbot,* 196 Mich. 520, 527, 162 N.W. 1017, 1019; *State* v. *Herman,* 219 Wisc. 267, 277-278, 262 N.W. 718, 724.

permit petitioner to introduce evidence of alleged libels against him by the District Attorney.[8]

6. Petitioner makes numerous objections to what he calls unfair conduct of the prosecutor in assailing petitioner, his counsel, and associates at the pre-sentence hearing held before the trial judge (Pet. 22-26), but none of them has merit.

Petitioner's charges of anti-Semitic and anti-Negro undertones are imaginary and not justified. The record does not disclose that the witness Brodsky's name was repeated (see Pet. 22) any oftener than necessary to designate him or oftener than the name of any other witness would have been mentioned. The criticism about anti-Negro prejudice because the Negro lady, Miss Harewood, testified she wore false teeth (Pet. 25) is insincere, because her testimony regarding this was given only to show that she wanted to take notes because she could not talk very well without her teeth (R. 83, 84).

Petitioner asserts that there is not the slightest evidence that his accusatory statements against Mr. McGrath were false, so that it was improper for the prosecutor to refer to them as such (Pet. 24). However, as we have heretofore pointed out, *supra*, p. 11, the burden of proving the truth of the article was upon petitioner, but he made no attempt to do so. Since the jury had already found

---

[8] *People* v. *Strauch*, 247 Ill. 220, 229, 93 N.E. 126, 130.

petitioner guilty, it was proper to refer to the article as false.

Petitioner's complaints as to the prosecutor's remarks about his counsel (Pet. 25-26) and most of the other remarks complained of were made in the closing argument of the prosecutor at the pre-sentence hearing (R. 279-299). There was no objection to these remarks at the time. *Berger* v. *United States,* 295 U. S. 78; *Viereck* v. *United States,* 318 U. S. 236; and *Glasser* v. *United States,* 315 U. S. 60, cited by petitioner (Pet. 26), all involved arguments of counsel before juries, whereas here the pre-sentence hearing was before the court without a jury.[9] There was little danger that the district judge would be prejudiced by such remarks in deciding upon the sentence to be imposed.

---

[9] In *Raymond* v. *United States,* 25 App. D. C. 555, certiorari denied, 200 U. S. 619 (see Pet. 26), the trial court after the discharge of the jury heard certain evidence on the merits which should have been heard before the jury and not by the court alone, so that it is distinguishable from the instant case.

CONCLUSION

No conflict of decisions is involved and the petition for a writ of certiorari presents no question meriting further review by this Court. It should therefore be denied.

Respectfully submitted,

PHILIP B. PERLMAN,
Solicitor General.

ALEXANDER M. CAMPBELL,
Assistant Attorney General.

ROBERT S. ERDAHL,
ROBERT G. MAYSACK,
Attorneys.

OCTOBER 1949.

APPENDIX

Canal Zone Code, approved June 19, 1934, 48 Stat. 1122, provides as follows:

Title 1, Section 1. * * *

a. That no person shall be deprived of life, liberty or property without due process of law;

* * * * *

c. That in all criminal prosecutions the accused shall enjoy the right:

* * * * *

(2) To be informed of the nature and cause of the accusation;

(3) To be confronted with the witnesses against him;

* * * * *

Title 5, Section 351. *Libel defined.*—A libel is a malicious defamation, expressed either by writing, printing or by signs or pictures, or the like, tending to blacken the memory of one who is dead, or to impeach the honesty, integrity, virtue or reputation, or to publish the natural or alleged defects of one who is alive, and thereby to expose him to public hatred, contempt or ridicule.

Section 352. *Punishment of libel.*—Every person who willfully and with a malicious intent to injure another publishes or procures to be published any libel is punishable by a fine

of not more than $5,000, or imprisonment in the penitentiary for not more than one year.

* * * * *

Section 354. *Truth and good motives as a defense.*—In all criminal prosecutions for libel the truth may be given in evidence to the jury, and if it appears to the jury that the matter charged as libelous is true and was published with good motives and for justifiable ends the defendant shall be acquitted.

Section 355. *Publication defined.*—To sustain a charge of publishing a libel, it is not needful that the words or things complained of should have been read or seen by another. It is enough that the accused knowingly parted with the immediate custody of the libel under circumstances which exposed it to be read or seen by any other person than himself.

Sec. 356. *Liability of editors and publishers.*—Each author, editor or proprietor of any book, newspaper or serial publication, is chargeable with the publication of any words contained in any part of such book or number of the newspaper or serial.

Section 357. *Liability of author of libel.*—The author of a libel in all cases is equally guilty and is subject to the same punishment as the publisher, owner or proprietor of the newspaper or other printed publication in which the libelous article appears. The punishment prescribed in section 352 of this title is applicable to this section.

Title 6, Section 181. *Requisites of information in general.*—The information must contain:

a. The title of the action;

b. The name of the court to which it is presented;

c. The names of the parties;

d. A statement in ordinary and concise language of the acts constituting the offense, in such manner as to enable a person of common understanding to know what is intended; and

e. A statement that it is based upon due investigation of the facts relating to the crime charged therein, and upon the sworn testimony of one or more witnesses.

* * * * *

Section 183. *Requirement of directness and certainty in certain regards.*—The information must be direct and certain as regards:

a. The party charged;

b. The offense charged; and

c. The particular circumstances of the offense charged, when they are necessary to constitute a complete offense.

Section 184. *Use of words employed to define offense.*—Words used in a law to define a public offense need not be strictly pursued in

the information, but other words conveying the same meaning may be used.

* * * * *

Section 187. *Sufficiency of information in general.*—The information is sufficient if it can be understood therefrom, that:

a. It is entitled in a court having authority to receive it, though the name of the court be not stated;

b. It is signed and filed by the district attorney of the Canal Zone;

c. The defendant is named, or if his name cannot be discovered, that he is described by a fictitious name, with a statement that his true name is to the district attorney unknown;

d. The offense was committed at some place within the jurisdiction of the court, except where the act, though done without the local jurisdiction of the court, is triable therein;

e. The offense was committed at some time prior to the time of filing the information;

f. The act or omission charged as the offense is clearly and distinctly set forth in ordinary and concise language, without repetition, and in such a manner as to enable a person of common understanding to know what is intended; and

g. The act or omission charged as the offense, is stated with such a degree of certainty as to

enable the court to pronounce judgment upon a conviction, according to the right of the case.

* * * * *

Section 201. *Information for libel.*—An information for libel need not set forth any extrinsic facts for the purpose of showing the application to the party libeled of the defamatory matter on which the information is founded; but it is sufficient to state generally that the same was published concerning him, but the fact that it was so published must be established at the trial.

Title 7, Section 34. *Selection, summoning and serving of jurors.*—The district judge shall provide for the selection, summoning and serving of jurors from among the citizens of the United States subject to jury duty to serve in the division of the district in which such jurors reside. Any citizen of the United States who is employed by the Panama Canal or the Panama Railroad Company within the Canal Zone, and who resides in a residence owned by the Panama Canal or Panama Railroad Company in territory contiguous to the Canal Zone shall for the purpose of this section be deemed to reside in the division nearest his place of residence.

Part V, Section 1 of Rules of the United States District Court for the Canal Zone, effective August 1, 1945, provides:

Qualifications of Jurors

Persons serving as jurors in this court must possess the following qualifications:

(a) American citizenship;

(b) Male sex;

(c) Age of twenty-one years or over;

(d) Ability to read, write, and understand the English language;

(e) Intelligence, sobriety, discretion, and impartiality; and

(f) Residence in the Canal Zone, or, in the case of employees of The Panama Canal or Panama Railroad Company, residence either in the Canal Zone or in a residence owned, controlled, or provided by the Canal or Railroad in territory contiguous to the Canal Zone.

Employees living in residences owned, controlled, or provided by the Canal or Railroad in territory contiguous to the Canal Zone are deemed for purposes of jury duty to reside in the judicial division nearest their places of residence.

☆ U. S. GOVERNMENT PRINTING OFFICE: 1949 858979 184